

Message Text

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PAGE 01 STATE 307654
ORIGIN OPIC-06

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DRAFTED BY OPIC/GC RSTERN
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FM SECSTATE WASHDC
TO AMEMBASSY BRIDGETOWN IMMEDIATE

UNCLAS STATE 307654

FROM OPIC

E.O. 11652: N/A

TAGS: EINV

SUBJECT: NOV. 23, 1977 CLAIM OF CONSTRUCTION
AGGREGATES

1. OPIC WILL POST IN TOMORROW MORNING'S MAIL THE
FOLLOWING LETTER:

DEAR SOLICITOR GENERAL:

AS YOU MAY KNOW, THE OVERSEAS PRIVATE INVESTMENT CORPORA-
TION ("OPIC") ISSUED A POLITICAL RISK INSURANCE
CONTRACT OF GUARANTY TO CONSTRUCTION AGGREGATES CORPORATION
WITH RESPECT TO THE CONSTRUCTION WORK TO BE PERFORMED IN
BARBADOS UNDER THE CONTRACT WITH YOUR GOVERNMENT FOR THE
EXPANSION AND IMPROVEMENT OF THE PORT OF BRIDGETOWN. ONE
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PAGE 02 STATE 307654

OF THE RISKS INSURED AGAINST IN THE CONTRACT OF GUARANTY
IS THE FAILURE OF THE GOVERNMENT OF BARBADOS TO PROPERLY
RESPOND WITHIN A PERIOD OF SIX MONTHS TO A REQUEST BY
CONSTRUCTION AGGREGATES FOR ARBITRATION IN ACCORDANCE WITH
THE RESOLUTION-OF-DISPUTES CLAUSE IN THE CONSTRUCTION
CONTRACT. UNDER THIS PROVISION OF THE CONTRACT OF GUARANTY,
CONSTRUCTION AGGREGATES HAS FILED A CLAIM WITH OPIC,

ASSERTING THAT ON FEBRUARY 8, 1977, CONSTRUCTION

AGGREGATES REQUESTED THE ARBITRATION OF SEVERAL QUESTIONS ARISING UNDER THE CONSTRUCTION CONTRACT AND THAT THE GOVERNMENT OF BARBADOS HAS NOT IN GOOD FAITH FOLLOWED THE RESOLUTION-OF-DISPUTES PROCEDURE ESTABLISHED IN THE CONTRACT.

IN ORDER TO ASSESS THE CLAIM, OPIC INVITES THE VIEWS OF THE GOVERNMENT OF BARBADOS ON THIS MATTER. OF COURSE, IF A SETTLEMENT OF THE DISPUTED QUESTIONS IS ACHIEVED BETWEEN THE GOVERNMENT OF BARBADOS AND CONSTRUCTION AGGREGATES, THE CLAIM OF CONSTRUCTION AGGREGATES AGAINST OPIC WILL BE MOOTED. WE UNDERSTAND THAT SETTLEMENT NEGOTIATIONS ARE NOW IN PROGRESS AND CERTAINLY HOPE THAT AN AMICABLE SETTLEMENT CAN BE ACHIEVED.

OPIC LOOKS FORWARD TO YOUR RESPONSE AND THANKS THE GOVERNMENT OF BARBADOS FOR ITS COOPERATION.

SINCERELY,

RICHARD STERN
SENIOR COUNSEL FOR CLAIMS

2. FYI. OPIC HAS MADE NO DETERMINATION WITH RESPECT TO UNCLASSIFIED

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PAGE 03 STATE 307654

THE VALIDITY OF CONSTRUCTION AGGREGATES' CLAIM. THE PRIMARY QUESTION AT THIS JUNCTURE IS THE PROPER INTERPRETATION AND APPLICATION OF THE RESOLUTION-OF-DISPUTES CLAUSE IN THE CONSTRUCTION CONTRACT. CONSTRUCTION AGGREGATES HAD INDICATED THAT A NEGOTIATED SETTLEMENT IS QUITE POSSIBLE, BUT HAS BEEN UNHAPPY WITH THE PACE OF DISCUSSIONS. BOTH PARTIES ARE APPARENTLY AWAITING REPORTS FROM THE GOB'S ENGINEER. VANCE

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